



1 ENVIRONMENTAL AND PUBLIC PROTECTION CABINET

2 Department for Environmental Protection

3 Division of Waste Management

4 (Amendment)

5 401 KAR 42:060. UST system release [~~Release~~] response and corrective action for UST systems  
6 containing petroleum or hazardous substances.

7 RELATES TO: KRS 224.01, 224.10, 224.40, 224.43, 224.46, 224.60, 40 CFR Part 280  
8 Subpart F, Part 281, 42 U.S.C. 6991-6991c

9 STATUTORY AUTHORITY: KRS 224.10-100, 224.60-105, 224.60-137, 40 CFR Part  
10 280 Subpart F, Part 281, 42 U.S.C. 6991c

11 NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 requires the  
12 Environmental and Public Protection Cabinet [~~Natural Resources and Environmental Protection~~  
13 ~~Cabinet~~] to develop and conduct programs that provide for the prevention, abatement, and  
14 control of contaminants that may threaten the environment. KRS 224.60-105 [(2)] requires the  
15 cabinet to regulate underground storage tank (UST) systems by requiring registration  
16 [~~notification~~], minimum construction and performance standards, leak detection, recordkeeping,  
17 release reporting, corrective action, closure, financial responsibility, and other standards to  
18 protect public health and the environment. KRS 224.60-105(3) requires the cabinet to establish a  
19 regulatory program that implements federal requirements for UST systems. This chapter  
20 identifies requirements for UST systems. This administrative regulation establishes the

1 requirements for UST system release response, site characterization, corrective action, and public  
2 participation.

3 Section 1. Adoption of Federal Regulation. (1) The requirements for UST system release  
4 response, site characterization, corrective action and public participation for UST systems are  
5 governed by 40 CFR Part 280 Subpart F [(1994)].

6 (2) The documents incorporated by reference in Section 3 [~~Section 2~~] of this  
7 administrative regulation shall be used in meeting the requirements of subsection (1) of this  
8 section.

9 Section 2. Extensions. The owner or operator of a UST system may request an extension  
10 of the time frame for reports required by this administrative regulation. The extension request  
11 shall be submitted in writing and received by the Underground Storage Tank Branch of the  
12 Division of Waste Management prior to the deadline. The cabinet may grant extensions, if the  
13 cabinet determines that an extension would not have a detrimental impact on human health or the  
14 environment.

15 Section 3. No Further Action Letter. (1) When the UST facility has met all requirements  
16 in 401 KAR Chapter 42, the cabinet shall issue a no further action letter for the UST facility.

17 (2) Any unpaid registration fees due in accordance with 401 KAR 42:200, shall be paid in  
18 full prior to the cabinet issuing a no further action letter to any UST facility.

19 Section 4. [~~Section 2~~]. Incorporation by Reference. (1) The following documents are  
20 [hereby] incorporated by reference:

21 (a) "Site [Underground Storage Tank System Site] Check Outline" (January 2006)  
22 [~~(October 1995)~~];

1 (b) "Site [Underground Storage Tank System Site] Investigation Outline" (January 2006)  
2 [~~(October 1995)~~];

3 (c) [~~Underground Storage Tank System~~] "Corrective Action Plan Outline" (January 2006)  
4 [~~(October 1995)~~];

5 (d) "UST [Underground Storage Tank] System Release Response and Initial Abatement  
6 Requirements Outline" (January 2006) [~~(October 1995)~~]; and

7 (e) "Site Investigation Checklist Form", DEP 8049 (January 2006) [~~"UST Groundwater~~  
8 ~~Sample Analysis Form", DEP Form 2013 (September 5, 1995).~~]

9 (2) The documents referenced in [~~subsection (1) of~~] this section are available for  
10 inspection and copying, subject to copyright law, at the Underground Storage Tank Branch 81 C.  
11 Michael Davenport Blvd., Frankfort, Kentucky 40601, (502) 564-5981 [~~of the Division of Waste~~  
12 ~~Management, 14 Reilly Road, Frankfort, Kentucky 40601, (502)564-6716~~], from 8 a.m. to 4:30  
13 p.m. eastern time, Monday through Friday, excluding state holidays [~~holidays.~~] and may also be  
14 obtained on the Division of Waste Management's web page located at [www.waste.ky.gov](http://www.waste.ky.gov).

15 [~~Section 3. Extensions. The owner or operator of a UST system may request extension of~~  
16 ~~a time frame for any report required by this administrative regulation. The extension request~~  
17 ~~shall be submitted in writing and received by the Underground Storage Tank Branch of the~~  
18 ~~Division of Waste Management prior to the deadline. The cabinet may grant extensions, if~~  
19 ~~warranted.~~

401 KAR 42:060 is approved for filing.

5-12-2016

Date

John W. Clay

John W. Clay, Deputy Secretary  
Environmental and Public Protection Cabinet

for

LaJuana S. Wilcher, Secretary  
Environmental and Public Protection Cabinet

**PUBLIC HEARING AND PUBLIC COMMENT PERIOD:** A public hearing on this administrative regulation shall be held on May 23, 2006 at 10:00 AM (Eastern Time) at the Capital Plaza Tower Auditorium, 500 Mero Street, Room 228, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by May 16, 2006, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until May 31, 2006. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

**CONTACT PERSON:** Bruce Scott, P. E., Director  
Division of Waste Management  
14 Reilly Road  
Frankfort, KY 40601  
Telephone: (502) 564-6716 Fax (502) 564-4049  
Email: Bruce.Scott@ky.gov

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation #: 401 KAR 42:060

Contact person: Bruce Scott, Director

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements for release response, site characterization, corrective action, and public participation.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to adopt the federal regulations for release response, site characterization, corrective action, and public participation.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation establishes the requirements for releases from USTs and adopts the federal standards for release response, site characterization, corrective action, and public participation.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the requirements for release response, site characterization, corrective action, and public participation.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment updates the incorporated materials.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to update the incorporated materials.

(c) How the amendment conforms to the context of the authorizing statutes: This amendment establishes the requirements for releases from USTs and adopts the federal standards for release response, site characterization, corrective action, and public participation.

(d) How the amendment will assist in the effective administration of the statutes: This amendment serves to update the incorporate materials for release response, site characterization, corrective action, and public participation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This amendment will affect those individuals that own and operate underground storage tanks in the Commonwealth of Kentucky, approximately 13,400. UST contractors that operate in the Commonwealth of Kentucky will also be affected by this regulation.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment: This amendment only updates the incorporate materials for release response, site characterization, corrective action, and public participation.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There will be no costs associated with implementation of this administrative regulation.

(b) On a continuing basis: There will be no additional costs associated with implementation of this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The implementation and enforcement of this administrative regulation is funded through two federal grants and the restricted fund receipts described in KRS 224.60-150.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: There is no need for an increase in funding or fees to implement this amendment.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish any fees.

(9) TIERING: Is tiering applied? (Explain why tiering was or was not used.)

No tiering is applied. To apply tiering to the amendment would unduly regulate some entities with USTs while not regulating others.

## FISCAL NOTE ON LOCAL GOVERNMENT

Administrative Regulation #: 401 KAR 42:060

Contact person: Bruce Scott, Director

Phone Number: (502) 564-6716

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes   X   No        If yes, complete question 2 to 4. If no, you do not need to file this form.

2. State what unit, part, or division of local government this administrative regulation will affect.

This amendment may affect local governments that own or operate underground storage tanks.

3. State, in detail, the aspect or service of local government to which this administrative regulation relates, including identification of the applicable state or federal statute or regulation that mandates the aspect or service or authorizes the action taken by the administrative regulation.

This amendment relates to the agents of local government that own or operate underground storage tanks. KRS 224.60-105 authorizes the promulgation of this administrative regulation.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): No effect.

Expenditures (+/-): No effect.

Other Explanation: The cabinet expects no significant impact from this administrative regulation.



**DETAILED SUMMARY OF MATERIAL  
INCORPORATED BY REFERENCE IN  
401 KAR 42:060**

I. This administrative regulation incorporates by reference the "Site Check Outline", (January 2006). This document is used to establish the requirements for site check activities.

This document consists of 10 pages.

II. This administrative regulation incorporates by reference the "Site Investigation Outline", (January 2006). This document is used to establish the requirements for site investigation activities.

This document consists of 17 pages.

III. This administrative regulation incorporates by reference the "Corrective Action Plan Outline", (January 2006). This document is used to establish the requirements for corrective action activities.

This document consists of 52 pages.

IV. This administrative regulation incorporates by reference the "UST System Release Response and Initial Abatement Requirements Outline", (January 2006). This document is used to establish the requirements for a release response and initial abatement activities.

This document consists of 3 pages.

V. This administrative regulation incorporates by reference the "Site Investigation Checklist Form", DEP 8049 (January 2006). This document is used to establish the requirements for corrective action activities.

This document consists of 4 pages.